

No. 1 Bkpt Oct A.

W^m J. Jacobson
a bankrupt

ruling of the Court
upon motion
for discharge
heard Jan 10 1899

Filed 17 January 1899

In the matter of (In the District Court of the United
(
WILLIAM D. JACOBSON, (States for the District of Maryland.
(
a Bankrupt. (IN BANKRUPTCY.
(

HEARING OF THE BANKRUPT'S APPLICATION FOR A DISCHARGE.

MORRIS, District Judge,

A creditor of the Bankrupt appears in opposition to his discharge and ~~an~~ ground of opposition alleges that the Bankrupt has committed an offense punishable by imprisonment under the Bankrupt law in that (1) while a Bankrupt he concealed assets and property belonging to his estate from the trustee elected by the creditors, to wit, the goods and fixtures of a certain coal yard carried on by the Bankrupt.

(2) That the Bankrupt had sworn falsely in several specified particulars during an examination by the creditor before the Referee.

The coal yard in question appears to have been *transferred by* bill of sale from one Engel to Abraham Reamer on June 3, 1898, for the consideration of \$600.

Reamer is a brother-in-law of the Bankrupt, and has been for some years concerned in his affairs. The Bankrupt swears that the transaction was a bona fide one and that he is ^{now} employed by Reamer at a weekly salary to conduct the business,

that it is really Reamer's business carried on for him at his ~~risk~~ and expense.

There are suspicious circumstances about the transaction, but I cannot in this proceeding adjudge that the coal yard is the property of the Bankrupt and not ~~that~~ ^{the property} of Reamer and yet that adjudication is involved in sustaining this ground of opposition to the discharge.

There are two grounds under Section 14 for refusing a discharge, (1) that the Bankrupt has committed an offense punishable by imprisonment under the act, (2) having with the fraudulent intent destroyed, concealed or failed to keep books of account from which his true condition might be ascertained.

This ^{present} opposition proceeds upon the first ground, viz, that the bankrupt has committed an offense punishable under the ^{Bankrupt} act by imprisonment. It is made ^{and} an offense ^{that the Bankrupt has} to have knowingly and fraudulently concealed while a bankrupt from his trustee any of the property belonging to his estate in bankruptcy. Whether the bankrupt has committed this offense depends upon whether the coal yard is Reamer's ^{property} or the property of the Bankrupt. Unless there is testimony obtainable sufficient to prove that it is the property of the Bankrupt in a suit ^{against} ~~with~~ Reamer this Court cannot in this proceeding adjudge that the Bankrupt has committed the offense of knowingly and fraudulently concealing his ownership from the trustee. Reamer was not examined as a witness or made a party in any way ^{in this proceeding} and has had no opportunity to be heard or

to have his rights adjudicated.

I will suspend action upon this application for thirty days in order to give the creditors and the trustee an opportunity, if they shall be so advised, to test the ownership of the coal yard business in a suit to which Reamer shall be a party.

The other ground of opposition is the false swearing of the bankrupt in his examination before the Referee.

The Bankrupt testified that
On November 1st, 1894, *he* ~~the Bankrupt~~ *in the examination testified that he* was doing business at West Norfolk, Virginia, and made a deed of trust for the benefit of creditors. *That* under the deed the trustee sold the stock of goods to Reamer, who sold them to the Bankrupt's wife. *That* ~~he~~ carried on the business in her name until June, 1897, when she made a deed of trust and the stock was again sold to Reamer.

The Bankrupt was examined as to these transactions before the Referee on September 9th, 1898, and gave an account of the making of the deed of trust by his wife stating that he was away from home on a visit when his wife executed the deed and gave other details about the purchase of the goods by her and the making of the deed of trust by her. The examination was adjourned for five days until the 14th day of September at which adjourned meeting the Bankrupt's examination was continued, and the Bankrupt stated that he desired to correct certain statements made at the first examination, declaring by way of explanation that he had been unwell at the first examination and

suffering from an attack of typhoid fever from which he had not recovered and had got provoked and confused under the cross-examination.

He then stated that he was at home with his wife when she made the deed of trust in 1897 and corrected some statements as to how she had paid for the goods.

It is to be noticed that between the Bankrupt's first and second examinations there had been no other witness examined, and no action by the trustee or creditors, and that the correction was of his own suggestion.

Under these circumstances, as the false testimony was about a matter collateral to the investigation which was as to the present ownership of the coal yard, and the testimony was not directly material, and the correction was made voluntarily, and some palliation suggested for the contrariety of statements, I do not think it is proven beyond doubt that the false statements made on the first day of the examination were made by the Bankrupt knowingly and fraudulently.